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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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2 COMMISSIONERS

3 MIKE GLEASON, Chairman
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2008 OCT -9 P 3:07

AZ CORP COMMISSION
DOCKET CONTROL

6 IN THE MATTER OF:

7 WESTCOR/GOODYEAR, L.L.C., and GLOBE
8 LAND INVESTORS, L.L.C.,

COMPLAINANTS,

9 VS.

10 LITCHFIELD PARK SERVICE COMPANY,
11

RESPONDENT.

DOCKET NO. SW-01428A-08-0234

**STAFF'S CLARIFICATION OF
POSITION REGARDING
REQUEST FOR APPROVAL**

13 The Arizona Corporation Commission Staff ("Staff") hereby files this "Clarification of Staff's
14 Position Regarding the Request for Approval." Staff is concerned that it has not clearly
15 communicated its position regarding approval of the financing portion of the parties' settlement
16 agreement. As Judge Nodes noted in his October 6, 2008 Recommended Opinion and Order
17 ("ROO"), in a previous filing Staff "recommended that the Commission refrain from making any
18 rate-making determinations as to prudence outside of a rate case."¹ Also as noted by Judge Nodes,
19 "In addition to the agreement by counsel for LPSCO and Westcor that no prudence pre-approval of
20 plant investment was being sought under the Settlement Agreement, Staff counsel indicated Staff's
21 satisfaction with a Commission Order that would limit approval to only the reasonableness of the
22 negotiated capacity charge."²

23 The Recommended Opinion and Order ("ROO") states

24 "that approval of Section 4 of the Settlement Agreement in this Decision
25 in no way constitutes a finding that any of the wastewater facilities
26 constructed to serve the Estrella Falls project are deemed reasonable or
27 prudent. The approval granted herein does not guarantee or imply any
specific treatment of any capital additions for rate base or rate making
purposes, and the prudence of those facilities for purposes of inclusion in

28 ¹ Staff's September 29, 2008 Response at page 2.

² ROO at page 10-11.

1 rate base is specifically reserved for consideration in a future rate case to
2 be filed by LPSCO.”³

3 The ROO also orders that the financing provisions (sub-sections 4.1 through 4.4 of the Settlement
4 Agreement) “are hereby approved as a fair and reasonable allocation of responsibility between the
5 Developers and LPSCO for funding the cost of the additional wastewater treatment capacity needed
6 for LPSCO to serve Phase II of the Estrella Falls project.”⁴ Staff is concerned that this language
7 could be later used to constrain Staff in its ability to fully analyze the prudence of the financial
8 responsibility allocation or to make an independent recommendation in a later rate case. In other
9 words, in a future rate case, Staff would want to independently determine if the amount that Westcor
10 has agreed to pay in this case is more or less than what would be required by LPSCO’s hook up fee
11 tariff (“HUF”).

12 To the extent that Staff’s comments at the hearing could have been interpreted as
13 acquiescence to a limitation upon either Staff’s or the Commission’s ability to analyze these matters
14 in a later rate case, Staff would like to clarify its comments. Staff cannot recommend any approval
15 that would in any way constrain Staff’s ability (or the Commission’s ability) in a later rate case to do
16 a full and independent analysis of the prudence of the various contributions to the wastewater
17 facilities construction. Although LPSCO apparently believes that the amount that Westcor has
18 agreed to pay is more than what would be required by LPSCO’s HUF, Staff would like the
19 opportunity to independently evaluate that issue in LPSCO’s next rate case. Staff does not
20 recommend approval of any portion of the agreement that could be construed to mean that Staff (or
21 the Commission) would be precluded from any prudence finding or review in a future rate case.

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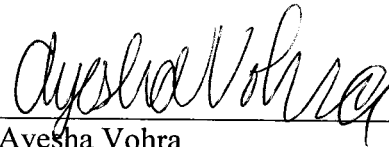
27 ...

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³ ROO at page 13.

⁴ ROO at page 12.

1 RESPECTFULLY submitted this 9th day of October, 2008.
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12 Original and thirteen (13) copies
13 of the foregoing were filed this
14 9th day of October, 2008 with:

15 Docket Control
16 Arizona Corporation Commission
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19 Copy of the foregoing mailed
20 9th of October, 2008 to:

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